

Andrew J. Witty

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Defendant and Cross Complainant, in pro se

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY – NEWARK**

THE BANK OF NEW YORK MELLON;

Plaintiff

Case No.:15-cv-00500 MCA- MHA
(Proposed) **ORDER after Hearing**
Staying Foreclosure Proceedings

ANDREW J. WITTY,

Defendants

Hearing date: _____, 2023

Time:

Room:

And related cross action of
WITTY v. BANK OF NEW YORK MELLON, ET AL.

[Proposed] ORDER

On _____, 2023, this court considered the motion presented by defendant Andrew Witty appearing in pro se, and his moving papers. As well, the court considered the Opposition filed by the responding party, Plaintiff Bank of New York Mellon appearing through its counsel

_____, . Oral argument was/was not held.

Having considered the Motion and Opposition, the court finds and rules that:

Proposed ORDER on Motion to Stay a Proceeding by Defendant Andrew Witty, Only.

1. The provisions of **12 C.F.R. 1024.41 (g), et al.** apply to this judicial proceeding placing an affirmative obligation on plaintiff's loan servicer Shellpoint Mortgage Service to consider and determine an appropriate foreclosure alternative and to avoid the effect otherwise of 'dual tracking' of the subject loan under consideration. In light thereof, a stay of these proceedings is justifiable.
2. The motion to stay/or abate the present foreclosure action is **granted**. No further judicial or extrajudicial activity shall be allowed or considered until the loan modification and loss prevention proceedings more fully described in the Motion submitted by defendant and undertaken by Shellpoint Mortgage Service are completed. Written loss prevention findings shall be upon terms authorized by the C.F.R. issued by Shellpoint Mortgage Service by and through counsel for Plaintiff Bank of New York Mellon setting forth the disposition are received by this court. Defendant shall have _____ days to respond. The court acknowledges defendant's right to appeal the final determination under the C.F.R.
3. The court shall prepare a Minute Order with findings and conclusions of law in support of this Order and append same to the record.
4. The court preliminarily finds that the provisions of 12 C.F.R. 1024.41, et are applicable to these proceedings and that to allow this proceeding to continue would constitute a form of prohibited "dual tracking" that Congress intended to halt during the loan modification process between the loan servicer a borrowers, here, defendant Andrew Witty. No further proceedings are authorized until a motion is filed, heard and ruled upon disposing of this stay.
5. The clerk of the court shall give notice of this Order by U.S. Mail.

Date: _____

UNITED STATES DISTRICT JUDGE